

SENATE BILL 3129

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 50,
relative to employing illegal aliens.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, Part 1, is amended by
adding the following new section thereto:

§ 50-1-107.

(a) For purposes of this section, unless the context otherwise requires:

(1) "Employee" means any person who engages in work for
compensation in money or other valuable consideration and for which a person
paying the compensation for the work performed is required to file a W-2 wage
and tax statement with the federal internal revenue service;

(2) "Knowingly" means having actual knowledge that a person is an
unauthorized alien or having a duty imposed by law to determine the immigration
status of an unauthorized alien and failing to perform that duty;

(3) "Lawful resident alien" means a person who is entitled to lawful
residence in the United States pursuant to the federal Immigration and
Naturalization Act;

(4) "Lawful resident verification information" means the documentation
that is required by the United States department of homeland security when
completing the employment eligibility verification form commonly referred to as
the Form I-9;

(5) "Replace" means the employee is in or is put in a job category that
requires equal skill, effort, and responsibility, and which is performed under

similar working conditions as the job category held by the discharged employee;
and

(6) "Unauthorized alien" means an alien as defined in 8 U.S.C. § 1324a(h)(3).

(b) There is created a civil cause of action for wrongful termination against an employer who knowingly discharges an employee working in Tennessee who is a United States citizen or permanent resident alien and hires or retains a person to replace the discharged employee who the employer knows, or reasonably should have known, is an unauthorized alien.

(c) It is an absolute bar to recover under this section if:

(1) The discharged employee was discharged for cause; or

(2) The employer requested from the unauthorized alien, received, and documented in the unauthorized alien's record, at least fourteen (14) calendar days after commencement of employment, lawful resident verification information consistent with employer requirements under the Immigration Reform and Control Act of 1986, compiled in 8 U.S.C. § 1101 et seq., and the lawful resident verification information provided by the unauthorized alien later was determined to be false.

(d) This section does not create an employment contract for either a public or private employer.

(e) No cause of action for a violation of subsection (b) shall arise anywhere in Tennessee law but from this section. A civil cause of action under this section shall be filed in chancery court or circuit court within one (1) year from the date the employee was terminated or the date the unauthorized alien commenced employment, whichever is later.

(f) The court is authorized to issue any restraining order, injunction or other equitable relief to restrain, prevent or remedy any wrongful termination provided for in subsection (b), and may award to the prevailing plaintiff actual damages sustained by such plaintiff, together with the costs of the lawsuit, including reasonable attorneys' fees.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect January 1, 2008, the public welfare requiring it.